IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6337 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

M/S.SAVALIA MACHINE TOOLS PVT.LTD.

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 6337 of 1989

MR VIJAY H PATEL for Petitioner No. 1

MR JD AJMERA for Respondent No. 1

MS PJ DAVAWALA for Respondent No. 1

MR PV HATHI for Respondent No. 2

RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 17/01/2002

ORAL JUDGEMENT

The petitioner M/s.Savalia Machine Tools Pvt. Ltd. has challenged in this petition the impugned letters at Annexures-R & S addressed by the respondent No.3-bank to the petitioner informing that as the respondent had failed to supply acceptable quality of pilot samples, the respondent No.1-Union of India demanded the amount on account of bank guarantee issued by them, therefore, the bank called upon the petitioner to deposit required amount to enable them to settle the case. By way of this petition, it is prayed that the respondents be restrained from executing the letters at Annexures-R & S by forfeiting the bank guarantee.

Learned counsel Shri Patel for the petitioner vehemently submitted that bank guarantee cannot be forfeited on the grounds mentioned in the letters at Annexures-R & S. He has tried to argue the matter on merits. However, I am of the considered opinion that for encashing bank guarantee, ordinarily even civil court would be slow in granting injunction then certainly this court cannot entertain such petition in its writ jurisdiction under Article 226 of the Constitution of India. After forfeiting of bank guarantee, if the petitioner has any grievance then certainly remedies are open to it but certainly by way of this petition they cannot ask for any relief. Thus, without going into the merits of the case and without expressing any opinion on the merits of the case, this petition is dismissed only on this ground. Rule discharged. Interim relief granted earlier stands vacated forthwith.

(B.J.Shethna, J.)

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